

Calendar No. 38

109TH CONGRESS
1ST SESSION**S. 243****[Report No. 109–26]**

To establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2005

Mr. THOMAS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MARCH 9, 2005

Reported by Mr. DOMENICI, without amendment

A BILL

To establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Heritage Partnership Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.
 Sec. 3. National Heritage Areas program.
 Sec. 4. Studies.
 Sec. 5. Management plans.
 Sec. 6. Local coordinating entities.
 Sec. 7. Relationship to other Federal agencies.
 Sec. 8. Private property and regulatory protections.
 Sec. 9. Authorization of appropriations.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) LOCAL COORDINATING ENTITY.—The term
 6 “local coordinating entity” means the entity des-
 7 ignated by Congress—

8 (A) to develop, in partnership with others,
 9 the management plan for a National Heritage
 10 Area; and

11 (B) to act as a catalyst for the implemen-
 12 tation of projects and programs among diverse
 13 partners in the National Heritage Area.

14 (2) MANAGEMENT PLAN.—The term “manage-
 15 ment plan” means the plan prepared by the local co-
 16 ordinating entity for a National Heritage Area des-
 17 ignated by Congress that specifies actions, policies,
 18 strategies, performance goals, and recommendations
 19 to meet the goals of the National Heritage Area, in
 20 accordance with section 5.

1 (3) NATIONAL HERITAGE AREA.—The term
2 “National Heritage Area” means an area designated
3 by Congress that is nationally important to the her-
4 itage of the United States and meets the criteria es-
5 tablished under section 4(a).

6 (4) NATIONAL IMPORTANCE.—The term “na-
7 tional importance” means possession of—

8 (A) unique natural, historical, cultural,
9 educational, scenic, or recreational resources of
10 exceptional value or quality; and

11 (B) a high degree of integrity of location,
12 setting, or association in illustrating or inter-
13 preting the heritage of the United States.

14 (5) PROGRAM.—The term “program” means
15 the National Heritage Areas program established
16 under section 3(a).

17 (6) PROPOSED NATIONAL HERITAGE AREA.—
18 The term “proposed National Heritage Area” means
19 an area under study by the Secretary or other par-
20 ties for potential designation by Congress as a Na-
21 tional Heritage Area.

22 (7) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

24 (8) STUDY.—The term “study” means a study
25 conducted by the Secretary, or conducted by 1 or

1 more other interested parties and reviewed by the
2 Secretary, in accordance with the criteria and proc-
3 esses established under section 4, to determine
4 whether an area meets the criteria to be designated
5 as a National Heritage Area by Congress.

6 **SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.**

7 (a) IN GENERAL.—The Secretary shall establish a
8 National Heritage Areas program under which the Sec-
9 retary shall provide technical and financial assistance to
10 local coordinating entities to support the establishment of
11 National Heritage Areas.

12 (b) DUTIES.—Under the program, the Secretary
13 shall—

14 (1)(A) conduct studies, as directed by Congress,
15 to assess the suitability and feasibility of designating
16 proposed National Heritage Areas; or

17 (B) review and comment on studies undertaken
18 by other parties to make such assessment;

19 (2) provide technical assistance, on a reimburs-
20 able or non-reimbursable basis (as determined by the
21 Secretary), for the development and implementation
22 of management plans for designated National Herit-
23 age Areas;

24 (3) enter into cooperative agreements with in-
25 terested parties to carry out this Act;

1 (4) provide information, promote under-
2 standing, and encourage research on National Herit-
3 age Areas in partnership with local coordinating en-
4 tities;

5 (5) provide national oversight, analysis, coordi-
6 nation, and technical assistance and support to en-
7 sure consistency and accountability under the pro-
8 gram; and

9 (6) submit annually to the Committee on Re-
10 sources of the House of Representatives and the
11 Committee on Energy and Natural Resources of the
12 Senate a report describing the allocation and ex-
13 penditure of funds for activities conducted with re-
14 spect to National Heritage Areas under this Act.

15 **SEC. 4. STUDIES.**

16 (a) CRITERIA.—In conducting or reviewing a study,
17 the Secretary shall apply the following criteria to deter-
18 mine the suitability and feasibility of designating a pro-
19 posed National Heritage Area:

20 (1) An area—

21 (A) has an assemblage of natural, historic,
22 cultural, educational, scenic, or recreational re-
23 sources that together are nationally important
24 to the heritage of the United States;

1 (B) represents distinctive aspects of the
2 heritage of the United States worthy of recogni-
3 tion, conservation, interpretation, and con-
4 tinuing use;

5 (C) is best managed as such an assemblage
6 through partnerships among public and private
7 entities at the local or regional level;

8 (D) reflects traditions, customs, beliefs,
9 and folklife that are a valuable part of the her-
10 itage of the United States;

11 (E) provides outstanding opportunities to
12 conserve natural, historical, cultural, or scenic
13 features;

14 (F) provides outstanding recreational or
15 educational opportunities; and

16 (G) has resources and traditional uses that
17 have national importance.

18 (2) Residents, business interests, nonprofit or-
19 ganizations, and governments (including relevant
20 Federal land management agencies) within the pro-
21 posed area are involved in the planning and have
22 demonstrated significant support through letters and
23 other means for National Heritage Area designation
24 and management.

1 (3) The local coordinating entity responsible for
2 preparing and implementing the management plan is
3 identified.

4 (4) The proposed local coordinating entity and
5 units of government supporting the designation are
6 willing and have documented a significant commit-
7 ment to work in partnership to protect, enhance, in-
8 terpret, fund, manage, and develop resources within
9 the National Heritage Area.

10 (5) The proposed local coordinating entity has
11 developed a conceptual financial plan that outlines
12 the roles of all participants (including the Federal
13 Government) in the management of the National
14 Heritage Area.

15 (6) The proposal is consistent with continued
16 economic activity within the area.

17 (7) A conceptual boundary map has been devel-
18 oped and is supported by the public and partici-
19 pating Federal agencies.

20 (b) CONSULTATION.—In conducting or reviewing a
21 study, the Secretary shall consult with the managers of
22 any Federal land within the proposed National Heritage
23 Area and secure the concurrence of the managers with the
24 findings of the study before making a determination for
25 designation.

1 (c) TRANSMITTAL.—On completion or receipt of a
2 study for a National Heritage Area, the Secretary shall—

3 (1) review, comment, and make findings (in ac-
4 cordance with the criteria specified in subsection (a))
5 on the feasibility of designating the National Herit-
6 age Area;

7 (2) consult with the Governor of each State in
8 which the proposed National Heritage Area is lo-
9 cated; and

10 (3) transmit to the Committee on Resources of
11 the House of Representatives and the Committee on
12 Energy and Natural Resources of the Senate, the
13 study, including—

14 (A) any comments received from the Gov-
15 ernor of each State in which the proposed Na-
16 tional Heritage Area is located; and

17 (B) a finding as to whether the proposed
18 National Heritage Area meets the criteria for
19 designation.

20 (d) DISAPPROVAL.—If the Secretary determines that
21 any proposed National Heritage Area does not meet the
22 criteria for designation, the Secretary shall include within
23 the study submitted under subsection (c)(3) a description
24 of the reasons for the determination.

1 (e) DESIGNATION.—The designation of a National
2 Heritage Area shall be—

3 (1) by Act of Congress; and

4 (2) contingent on the prior completion of a
5 study and an affirmative determination by the Sec-
6 retary that the area meets the criteria established
7 under subsection (a).

8 **SEC. 5. MANAGEMENT PLANS.**

9 (a) REQUIREMENTS.—The management plan for any
10 National Heritage Area shall—

11 (1) describe comprehensive policies, goals, strat-
12 egies, and recommendations for telling the story of
13 the heritage of the area covered by the National
14 Heritage Area and encouraging long-term resource
15 protection, enhancement, interpretation, funding,
16 management, and development of the National Her-
17 itage Area;

18 (2) include a description of actions and commit-
19 ments that governments, private organizations, and
20 citizens will take to protect, enhance, interpret, fund,
21 manage, and develop the natural, historical, cultural,
22 educational, scenic, and recreational resources of the
23 National Heritage Area;

24 (3) specify existing and potential sources of
25 funding or economic development strategies to pro-

1 tect, enhance, interpret, fund, manage, and develop
2 the National Heritage Area;

3 (4) include an inventory of the natural, histor-
4 ical, cultural, educational, scenic, and recreational
5 resources of the National Heritage Area related to
6 the national importance and themes of the National
7 Heritage Area that should be protected, enhanced,
8 interpreted, managed, funded, and developed;

9 (5) recommend policies and strategies for re-
10 source management, including the development of
11 intergovernmental and interagency agreements to
12 protect, enhance, interpret, fund, manage, and de-
13 velop the natural, historical, cultural, educational,
14 scenic, and recreational resources of the National
15 Heritage Area;

16 (6) describe a program for implementation for
17 the management plan, including—

18 (A) performance goals;

19 (B) plans for resource protection, enhance-
20 ment, interpretation, funding, management, and
21 development; and

22 (C) specific commitments for implementa-
23 tion that have been made by the local coordi-
24 nating entity or any government agency, organi-
25 zation, business, or individual;

1 (7) include an analysis of, and recommenda-
2 tions for, means by which Federal, State, and local
3 programs may best be coordinated (including the
4 role of the National Park Service and other Federal
5 agencies associated with the National Heritage
6 Area) to further the purposes of this Act; and

7 (8) include a business plan that—

8 (A) describes the role, operation, financing,
9 and functions of the local coordinating entity
10 and of each of the major activities contained in
11 the management plan; and

12 (B) provides adequate assurances that the
13 local coordinating entity has the partnerships
14 and financial and other resources necessary to
15 implement the management plan for the Na-
16 tional Heritage Area.

17 (b) DEADLINE.—

18 (1) IN GENERAL.—Not later than 3 years after
19 the date on which funds are first made available to
20 develop the management plan after designation as a
21 National Heritage Area, the local coordinating entity
22 shall submit the management plan to the Secretary
23 for approval.

24 (2) TERMINATION OF FUNDING.—If the man-
25 agement plan is not submitted to the Secretary in

1 accordance with paragraph (1), the local coordi-
 2 nating entity shall not qualify for any additional fi-
 3 nancial assistance under this Act until such time as
 4 the management plan is submitted to and approved
 5 by the Secretary.

6 (c) APPROVAL OF MANAGEMENT PLAN.—

7 (1) REVIEW.—Not later than 180 days after re-
 8 ceiving the plan, the Secretary shall review and ap-
 9 prove or disapprove the management plan for a Na-
 10 tional Heritage Area on the basis of the criteria es-
 11 tablished under paragraph (3).

12 (2) CONSULTATION.—The Secretary shall con-
 13 sult with the Governor of each State in which the
 14 National Heritage Area is located before approving
 15 a management plan for the National Heritage Area.

16 (3) CRITERIA FOR APPROVAL.—In determining
 17 whether to approve a management plan for a Na-
 18 tional Heritage Area, the Secretary shall consider
 19 whether—

20 (A) the local coordinating entity represents
 21 the diverse interests of the National Heritage
 22 Area, including governments, natural and his-
 23 toric resource protection organizations, edu-
 24 cational institutions, businesses, recreational or-

ganizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

1 (E) the local coordinating entity has dem-
2 onstrated the financial capability, in partner-
3 ship with others, to carry out the plan;

4 (F) the Secretary has received adequate
5 assurances from the appropriate State and local
6 officials whose support is needed to ensure the
7 effective implementation of the State and local
8 elements of the management plan; and

9 (G) the management plan demonstrates
10 partnerships among the local coordinating enti-
11 ty, Federal, State, and local governments, re-
12 gional planning organizations, nonprofit organi-
13 zations, or private sector parties for implemen-
14 tation of the management plan.

15 (4) DISAPPROVAL.—

16 (A) IN GENERAL.—If the Secretary dis-
17 approves the management plan, the Secretary—

18 (i) shall advise the local coordinating
19 entity in writing of the reasons for the dis-
20 approval; and

21 (ii) may make recommendations to the
22 local coordinating entity for revisions to
23 the management plan.

24 (B) DEADLINE.—Not later than 180 days
25 after receiving a revised management plan, the

1 Secretary shall approve or disapprove the re-
2 vised management plan.

3 (5) AMENDMENTS.—

4 (A) IN GENERAL.—An amendment to the
5 management plan that substantially alters the
6 purposes of the National Heritage Area shall be
7 reviewed by the Secretary and approved or dis-
8 approved in the same manner as the original
9 management plan.

10 (B) IMPLEMENTATION.—The local coordi-
11 nating entity shall not use Federal funds au-
12 thorized by this Act to implement an amend-
13 ment to the management plan until the Sec-
14 retary approves the amendment.

15 **SEC. 6. LOCAL COORDINATING ENTITIES.**

16 (a) DUTIES.—To further the purposes of the Na-
17 tional Heritage Area, the local coordinating entity shall—

18 (1) prepare a management plan for the Na-
19 tional Heritage Area, and submit the management
20 plan to the Secretary, in accordance with section 5;

21 (2) submit an annual report to the Secretary
22 for each fiscal year for which the local coordinating
23 committee receives Federal funds under this Act,
24 specifying—

1 (A) the specific performance goals and ac-
2 complishments of the local coordinating com-
3 mittee;

4 (B) the expenses and income of the local
5 coordinating committee;

6 (C) the amounts and sources of matching
7 funds;

8 (D) the amounts leveraged with Federal
9 funds and sources of the leveraging; and

10 (E) grants made to any other entities dur-
11 ing the fiscal year;

12 (3) make available for audit for each fiscal year
13 for which the local coordinating entity receives Fed-
14 eral funds under this Act, all information pertaining
15 to the expenditure of the funds and any matching
16 funds; and

17 (4) encourage economic viability and sustain-
18 ability that is consistent with the purposes of the
19 National Heritage Area.

20 (b) AUTHORITIES.—For the purposes of preparing
21 and implementing the approved management plan for the
22 National Heritage Area, the local coordinating entity may
23 use Federal funds made available under this Act to—

1 (1) make grants to political jurisdictions, non-
 2 profit organizations, and other parties within the
 3 National Heritage Area;

4 (2) enter into cooperative agreements with or
 5 provide technical assistance to political jurisdictions,
 6 nonprofit organizations, Federal agencies, and other
 7 interested parties;

8 (3) hire and compensate staff, including individ-
 9 uals with expertise in—

10 (A) natural, historical, cultural, edu-
 11 cational, scenic, and recreational resource con-
 12 servation;

13 (B) economic and community development;
 14 and

15 (C) heritage planning;

16 (4) obtain funds or services from any source,
 17 including other Federal laws or programs;

18 (5) contract for goods or services; and

19 (6) support activities of partners and any other
 20 activities that further the purposes of the National
 21 Heritage Area and are consistent with the approved
 22 management plan.

23 (c) PROHIBITION ON ACQUISITION OF REAL PROP-
 24 ERTY.—The local coordinating entity may not use Federal

1 funds authorized under this Act to acquire any interest
2 in real property.

3 **SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

4 (a) IN GENERAL.—Nothing in this Act affects the au-
5 thority of a Federal agency to provide technical or finan-
6 cial assistance under any other law.

7 (b) CONSULTATION AND COORDINATION.—The head
8 of any Federal agency planning to conduct activities that
9 may have an impact on a National Heritage Area is en-
10 couraged to consult and coordinate the activities with the
11 Secretary and the local coordinating entity to the max-
12 imum extent practicable.

13 (c) OTHER FEDERAL AGENCIES.—Nothing in this
14 Act—

15 (1) modifies, alters, or amends any law or regu-
16 lation authorizing a Federal agency to manage Fed-
17 eral land under the jurisdiction of the Federal agen-
18 cy;

19 (2) limits the discretion of a Federal land man-
20 ager to implement an approved land use plan within
21 the boundaries of a National Heritage Area; or

22 (3) modifies, alters, or amends any authorized
23 use of Federal land under the jurisdiction of a Fed-
24 eral agency.

1 **SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTEC-**
2 **TIONS.**

3 Nothing in this Act—

4 (1) abridges the rights of any property owner
5 (whether public or private), including the right to re-
6 frain from participating in any plan, project, pro-
7 gram, or activity conducted within the National Her-
8 itage Area;

9 (2) requires any property owner to permit pub-
10 lic access (including access by Federal, State, or
11 local agencies) to the property of the property
12 owner, or to modify public access or use of property
13 of the property owner under any other Federal,
14 State, or local law;

15 (3) alters any duly adopted land use regulation,
16 approved land use plan, or other regulatory author-
17 ity of any Federal, State or local agency, or conveys
18 any land use or other regulatory authority to any
19 local coordinating entity;

20 (4) authorizes or implies the reservation or ap-
21 propriation of water or water rights;

22 (5) diminishes the authority of the State to
23 manage fish and wildlife, including the regulation of
24 fishing and hunting within the National Heritage
25 Area; or

1 (6) creates any liability, or affects any liability
 2 under any other law, of any private property owner
 3 with respect to any person injured on the private
 4 property.

5 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) STUDIES.—There is authorized to be appro-
 7 priated to conduct and review studies under section 4
 8 \$750,000 for each fiscal year, of which not more than
 9 \$250,000 for any fiscal year may be used for any indi-
 10 vidual study for a proposed National Heritage Area.

11 (b) LOCAL COORDINATING ENTITIES.—

12 (1) IN GENERAL.—There is authorized to be
 13 appropriated to carry out section 6 \$15,000,000 for
 14 each fiscal year, of which not more than—

15 (A) \$1,000,000 may be made available for
 16 any fiscal year for any individual National Her-
 17 itage Area, to remain available until expended;
 18 and

19 (B) a total of \$10,000,000 may be made
 20 available for all such fiscal years for any indi-
 21 vidual National Heritage Area.

22 (2) TERMINATION DATE.—

23 (A) IN GENERAL.—The authority of the
 24 Secretary to provide financial assistance to an
 25 individual local coordinating entity under this

1 Act (excluding technical assistance and admin-
 2 istrative oversight) shall terminate on the date
 3 that is 15 years after the date of the initial re-
 4 ceipt of the assistance by the local coordinating
 5 committee.

6 (B) DESIGNATION.—A National Heritage
 7 Area shall retain the designation as a National
 8 Heritage Area after the termination date pre-
 9 scribed in subparagraph (A).

10 (3) ADMINISTRATION.—Not more than 5 per-
 11 cent of the amount of funds made available under
 12 paragraph (1) for a fiscal year may be used by the
 13 Secretary for technical assistance, oversight, and ad-
 14 ministrative purposes.

15 (c) MATCHING FUNDS.—

16 (1) IN GENERAL.—As a condition of receiving a
 17 grant under this Act, the recipient of the grant shall
 18 provide matching funds in an amount that is equal
 19 to the amount of the grant.

20 (2) ADMINISTRATION.—The recipient matching
 21 funds—

22 (A) shall be derived from non-Federal
 23 sources; and

24 (B) may be made in the form of in-kind
 25 contributions of goods or services fairly valued.

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